

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

SUMMIT CARBON SOLUTIONS, LLC,

Petitioner,

v.

IOWA UTILITIES BOARD, A DIVISION OF
THE DEPARTMENT OF COMMERCE,
STATE OF IOWA,

Respondent,

And

SIERRA CLUB IOWA CHAPTER and
OFFICE OF CONSUMER ADVOCATE,

Intervenors.

Case No. CVCV062900

**SUMMIT CARBON'S APPENDIX IN
SUPPORT OF ITS RESISTANCE TO
SIERRA CLUB'S MOTION FOR
SUMMARY JUDGMENT**

Petitioner Summit Carbon Solutions, LLC, pursuant to Iowa Rule of Civil Procedure 1.981, hereby submits its Appendix in Support of its Resistance to Sierra Club Iowa Chapter's Motion for Summary Judgment.

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Iowa Utilities Board's Answers to Petitioner's
First Set of Interrogatories

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By: /s/ Brant M. Leonard

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 12th of May, 2022, the foregoing document was electronically filed with the Clerk of Court using the EDMS system which will send a notice of electronic filing to all counsel of record registered with the EDMS system.

/s/ Brant M. Leonard

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>SUMMIT CARBON SOLUTIONS, LLC,</p> <p>Petitioner,</p> <p>v.</p> <p>IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA,</p> <p>Respondent,</p> <p>And</p> <p>SIERRA CLUB IOWA CHAPTER and OFFICE OF CONSUMER ADVOCATE,</p> <p>Intervenors.</p>	<p>Case No. CVCV062900</p> <p>RESPONDENT IOWA UTILITIES BOARD'S ANSWERS TO PETITIONER'S FIRST SET OF INTERROGATORIES</p>
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COMES NOW Respondent Iowa Utilities Board (IUB), by and through its undersigned counsel, and hereby submits the following answers to Summit Carbon Solutions, LLC's First Interrogatories to Respondent Iowa Utilities Board.

Respectfully submitted,

/s/ Jon Tack

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CERTIFICATE OF SERVICE

The undersigned certifies that on the ___ day of May, 2022, the foregoing document was served via electronic mail on counsel of record at the address(es) indicated below:

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/s/ Jon Tack

INTERROGATORY NO. 1: In IUB's response to Sierra Club's Interrogatory No. 2, IUB stated that it "began the routine practice of requesting a list or map identifying individuals provided notice of an informational meeting in June 2019," and IUB provided lists of dockets in which such requests were made.

a) State whether the listed dockets include every E-, P-, HLP- or GCU- docket in which an informational meeting was held in calendar 2019, 2020, and 2021.

b) List all informational meetings held in any E-, P-, HLP-, or GCU- dockets in 2019, 2020 and 2021 which were not listed in response to Sierra Club Interrogatory No. 2.

ANSWER:

- a) The docket list provided by Respondent IUB to Sierra Club's Interrogatory No. 2, included only those dockets for which landowner information was received and therefore did not include all dockets in which an informational meeting was held.
- b) Attached hereto is a complete listing of dockets for which the IUB received an informational meeting scheduling request since 2016.

INTERROGATORY NO. 2:

- a) Identify any order, rule, or other written policy statement where this practice of requesting a list or map identifying individuals provided notice of an informational meeting was (i) set forth publicly where stakeholders could learn of this policy; and (ii) internally at the IUB;
- b) Describe how this policy change in June 2019 was made (i.e. was there a vote of the Board, was there a written rationale for changing the policy, etc.) and the legal basis for making such a change;
- c) Identify the specific legal basis for requesting such lists.

ANSWER:

- a) Neither Iowa Code Chapter 479B nor Iowa Administrative Code Chapter 199—13 contain a requirement that a list or map identifying individuals provided notice of an informational meeting be submitted to the IUB by the persons seeking such informational meeting. Likewise, these requirements are not set forth in Iowa Code Chapter 478, 199 IAC Chapter 11, Iowa Code Chapter 479, or 199 IAC Chapter 10. The first identified Order of the Iowa Utilities Board requiring the submission of such landowner lists was issued on December 16, 2022 in Docket Nos. HLP-2021-0001, HLP-2021-0002, and HLP-2022-0003. No prior record of any order, rule, or other written policy statement in regard to this topic has been identified.
- b) No formal policy change was announced or promulgated by the Board in June of 2019 in regard to requests for informational meeting landowner mailing lists.
- c) Respondent objects to this interrogatory on the basis of the attorney work product doctrine to the extent that it calls for counsel's legal thoughts, trial strategies, and impressions of the case. Without waiving said objection, the statements contained in the Board's Order issued on December 16, 2022 set forth a legal basis for a request for such lists including the need to verify the notice requirements established by Iowa Code §479B.4 and the authority of the Board as provided in Iowa Code § 479B.1.

INTERROGATORY NO. 3: For all dockets IUB listed in response to Sierra Club's interrogatories as being a docket where such information was requested, state whether the information was provided, and whether it was provided in the public docket or not. For any docket where the information was not provided on request, state what actions were taken or consequences suffered by the party that did not provide such a list.

ANSWER:

The IUB asserts that responsive replies were received in regard to each docket for which a request has been identified in the attached table of dockets, previously filed in response to the Motion for Summary Judgment in this case.

To date, a list of landowners subject to final easements was filed by Dakota Access, LLC on April 27, 2020 in IUB Docket No. HLP-2014-0001 and mailing lists for landowners provided notice of informational meetings were filed by Summit Carbon Solutions LLC in Docket No. HLP-2021-0001 on various dates beginning on August 13, 2021 and continuing through September 2, 2021. No other landowner mailing lists have been identified as having been filed in the IUB electronic filing system.

	A	B	C	D	E
1	Docket No.	Date Request For Info Meeting Filed	Landowner List Requested	Date of Request for Landowner List/Map	Method of Request
2	HLP-2014-0001	10/29/2014	Yes	3/27/2020	Order requiring list of landowners with easements obtained.
3	E-22207	4/24/2015	Yes	2017	Unknown
4	E-22313	10/3/2016	Yes	2017	Unknown
5	E-22324	11/9/2016	No		
6	E-22335	12/19/2016	No		
7	E-22336	12/19/2016	No		
8	E-22337	12/19/2016	No		
9	E-22338	12/19/2016	No		
10	E-22339	12/19/2016	No		
11	E-22340	12/19/2016	No		
12	E-22341	12/19/2016	No		
13	P-0883	3/2/2017	No		
14	E-22349 (Canceled)	3/14/2017	No		
15	E-22350	3/14/2017	No		
16	E-22351 (Canceled)	3/14/2017	No		
17	E-22352	3/14/2017	No		
18	E-22353 (Canceled)	3/14/2017	No		
19	E-22354	3/14/2017	No		
20	E-22355	3/14/2017	No		
21	E-22356 (Canceled)	3/14/2017	No		
22	E-22357 (Canceled)	3/14/2017	No		
23	E-22358 (Canceled)	3/14/2017	No		
24	E-22380	7/28/2017	No		
25	E-22291 (Second)	9/13/2017	No		
26	E-22353 (Second)	11/28/2017	No		
27	E-22386	11/28/2017	No		
28	E-22387	1/10/2018	No		
29	E-22389	2/6/2018	No		
30	E-21412	2/15/2018	No		
31	E-22349 (Second, Canceled)	2/16/2018	No		
32	E-22396	5/17/2018	No		
33	P-0898	6/13/2018	No		
34	E-22356 (Second)	6/15/2018	No		
35	E-22401	8/30/2018	No		
36	E-22403 (Canceled)	10/8/2018	No		
37	E-22405	10/24/2018	No		
38	E-22407	10/30/2018	No		
39	E-21601	11/15/2018	No		

	A	B	C	D	E
1	Docket No.	Date Request For Info Meeting Filed	Landowner List Requested	Date of Request for Landowner List/Map	Method of Request
40	E-22405 (Additional County)	11/20/2018	No		
41	E-22403 (Second)	11/30/2018	No		
42	E-22410	1/18/2019	No		
43	E-22416	3/14/2019	No		
44	E-22417	3/14/2019	No		
45	E-21994	7/10/2019	No		
46	E-21216	7/16/2019	No		
47	E-22423	8/2/2019	Yes	12/6/2019	Email request for landowner list or map of people invited to informational meeting.
48	E-22425	8/22/2019	No		
49	E-22430	12/12/2019	No		
50	E-22431	12/18/2019	Yes	1/22/2020	Email request for landowner list or map of people invited to informational meeting.
51	E-22432	12/18/2019	Yes	2/24/2020	Email request for landowner list or map of people invited to informational meeting.
52	E-22435	1/16/2020	No		
53	E-22436	1/24/2020	No		
54	E-22416 (Additional County)	1/28/2020	Yes	6/6/2019	Email request for landowner map.
55	E-22437	5/19/2020	Yes	7/31/2020	Email request for landowner list or map of people invited to informational meeting.

	A	B	C	D	E
1	Docket No.	Date Request For Info Meeting Filed	Landowner List Requested	Date of Request for Landowner List/Map	Method of Request
56	E-22440	7/8/2020	Yes	8/13/2020	Email request for landowner list or map of people invited to informational meeting.
57	E-22441	7/9/2020	No		
58	E-22442 (Canceled)	8/5/2020	No		
59	E-22447 (Canceled)	12/11/2020	No		
60	E-22450	3/22/2021	Yes	4/26/2021	Email request for landowner list or map of people invited to informational meeting.
61	E-22452	3/22/2021	Yes	6/14/2021	Email request for landowner list or map of people invited to informational meeting.
62	E-22453	3/22/2021	Yes	7/2/2021	Email request for landowner list or map of people invited to informational meeting.
63	E-22455	4/7/2021	Yes	7/26/2021	Mail receipts provided.
64	E-22464 (Canceled)	6/14/2021	Yes	7/22/2021	Email request for landowner list or map of people invited to informational meeting.
65	HLP-2021-0001	8/4/2021	Yes	7/13/2021	Verbal request from staff for mailing lists for informational meetings. Subsequently ordered in 12/16/21 order.

	A	B	C	D	E
1	Docket No.	Date Request For Info Meeting Filed	Landowner List Requested	Date of Request for Landowner List/Map	Method of Request
66	E-22464	8/5/2021	Yes	7/22/2021	Email request for landowner list or map of people invited to informational meeting.
67	HLP-2021-0002	8/13/2021	Yes	9/30/2021	Email request for landowner list or map of people invited to informational meeting. Subsequently ordered in 12/16/21 order.
68	HLP-2021-0003	10/19/2021	Yes	12/16/2021	Order requiring mailing lists be filed.
69	E-22482 (Canceled)	11/3/2021	No		
70	E-22482	1/4/2022	No		
71	E-22499	1/27/2022	No		
72	E-22501	1/31/2022	Yes (WITHDRAWN)	2/8/2022	Request made in letter and later withdrawn.
73	E-22500	2/7/2022	No		
74	E-22502	2/8/2022	No		